

Statement

Insurance Association of Connecticut

Insurance and Real Estate Committee

February 21, 2012

HB 5143, An Act Concerning Insurance Coverage For Perishable

Food Donated By Certain Food Establishments

While the Insurance Association of Connecticut, IAC, understands the intent of HB 5143, the industry must oppose it as it changes the fundamental nature of insurance by negating the terms and conditions of the Commercial General Liability (CGL) contract. Insurance requires that a covered event occur resulting in actual damage to trigger coverage.

- There is nothing in HB5143 that requires that an insurable event even occur or the insured actually suffer a loss prior to mandating insurance coverage. If the two triggers contained in HB 5143 are met (a state of emergency is declared and there is a predicted power outage), HB 5143 mandates that a commercial risk insurer provide spoilage coverage regardless if the insured was affected by the event or the outage. What if the insured never loses power? Or the power is restored in advance of the predicted timeframe? This is a very bad precedent.
- HB 5143 allows a potential gaming of the insurance mechanism by converting the scope of coverage under the standard CGL policy. CGL policies do not typically cover losses that occur due to power interruption from a remote source. That coverage is offered through a separate rider that an entity can purchase. However, pursuant to HB 5143, insureds would, in effect, be granted such a benefit without ever having to buy the expanded coverage.
- What is meant by "the time period prescribed by the Department of Health or local director of health"? Is there more than one source that can deem when food is safe? Do they work together or separately? Are there different standards from one location to the next? Are there different standards for different types of food? Will there have to be an actual declaration that food is safe before it can be donated? How will an insurer know any of this?

- What is a “temporary shelter”? Does it have to be set up by a town? A non-profit organization? Can it be set up by a private individual? Does it have to be open to the public at large? Is there a floor on how many people have to use it or how long it has to remain open?
- Does a shelter have to have the capacity to accept the entire donated amount? What if more than one entity is donating to the shelter? Is this a first come, first covered proposition, or does the mere attempt to donate trigger the coverage? What proof may be required of the insured that the food was actually donated?
- An entity that donates pursuant to HB 5143 might be able to claim a tax deduction and still get the full value of their insurance coverage, essentially double dipping.
- HB 5143 acknowledges the liability exposure for donating such food by holding the entities that donate the food harmless but provides no relief to the insurers mandated to provide coverage for that donation.

HB 5143 creates a whole host of unworkable problems that render spoilage coverage impractical and invites potential fraud. **Insurers do not provide coverage for anticipated losses. The IAC urges your rejection of HB 5143.**